IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

MONDAY, THE TWENTY FIFTH DAY OF OCTOBER

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT APPEAL NO : 1524 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order Dated 20.07.004 in WP NO : 2097 OF 2004 on the file of the High Court)

Between:

P.V.S.S. Srinivasa Rao, S/o. P. Seetha Rama Rao,

R/o. 19-8-213C, Upstairs, Hathiramji Colony,

Near Chaitanya Bharathi High School,

Bairagipattada, Tirupathi - 517 501.

..... APPELLANT

AND

1 The Executive Officer, Tirumala Tirupati Devasthanam, Tirupati.

2 The Deputy Executive Officer, Tirumala Tirupati Devasthanam,

Tirupati.

3 The Joint Executive Officer, Tirumala Tirupati Devasthanam,

Tirupati.

4 Asst. Executive Officer (Ser.) Tirumala Tirupati Devasthanam,

Tirupati.

5 The Secretary, Dharma Prachara Parishat, T.T. Devasthanams,

Tirupati.

.....RESPONDENTS

WRIT APPEAL NO : 1528 of 2004

Between:

P.V.S.S.Srinivasa Rao, s/o P.Seetha Rama Rao, A/a 46 yrs.,

r/o 19-8-213 C, Upstairs, Hathiramji Colony, Near Chaitanya Bharathi High School, Bairagipattada, Tirupati-517 501.

..... APPELLANT

AND

1 The Executive officer, Tirumala Tirupati Devasthanam, Tirupati.

2 The Deputy Executive Officer, Tirumala Tirupati Devasthanam,

Tirupati.

3 The Joint Executive Officer, Tirumala Tirupati Devasthanams,

Tirupathi.

4 The Secretary, Dharma Prachara Parishat, T.T.Devasthanams,

Tirupati.

.....RESPONDENTS

Counsel for the Appellant:**MR.S.AGASTYA SHARMA**

Counsel for the Respondents No.: **MR.A.K.JAYAPRAKASH RAO**

The Court made the following :

O R D E R

(Per Sri Justice Goda Raghuram)

The appeals are preferred by a Vocal Artist Grade-I, under suspension, working in the T.T.D. against the Judgments of the learned single Judge dated 20th July, 2004 passed in W.P.No.2097 of 2004 and W.P.No.19259 of 2003.

W.P.No.19259 of 2003 in respect of which W.A.No.1528 of 2004 is instituted, was filed by the appellant seeking invalidation of the proceedings dated 07.06.2003 of the Executive Officer, T.T.D. rejecting his request for engaging a Defence Assistant of his choice during a departmental enquiry.

W.P.No.2097 of 2004 in respect of which W.A.No.1524 of 2004 is instituted, was filed by the appellant challenging the charge memos dated 12.12.2001, 23.05.2002 and 10.12.2003 as illegal and for a direction to drop the enquiry proceedings against him.

By the judgment dated 20.07.2004 the learned single Judge allowed W.P.No.19259 of 2003 and directed the respondents to permit the petitioner to engage as a defence assistant, any retired employee of the T.T.D. The substantive relief in W.P.No.2097 of 2004 was rejected

while directing expeditious completion of the departmental enquiry.

The appellant now urges a singular grievance viz. the choice of a defence assistant has been restricted by the orders of the learned single Judge in the two writ petitions, to a retired employee of T.T.D. It is the case of the appellant that he has chosen a retired Principal of the Government Music College as his defence assistant and that he should be permitted to pursue his defence in the departmental enquiry with the assistance of such defence assistant, as per his choice.

Resisting the claims and request of the appellant, Sri A.K.Jaya Prakash, learned Standing Counsel for T.T.D. contends that the petitioner has no fundamental right to engage others to defend him in a departmental enquiry and that there is nothing arbitrary in the insistence by the T.T.D. that the petitioner should engage as defence assistant only a retired employee of T.T.D. In principle the T.T.D. does not contend that the petitioner is not entitled to any defence assistance. It is not a case where the appellant wants to engage as defence assistant a legal practitioner. Whether it is a retired employee of the T.T.D. or a retired Government Servant (Principal of the Government Music College), whom appellant wants to engage a defence assistant, no prejudice whatsoever is caused to the T.T.D. No delay in the enquiry proceedings would be caused on account of such choice nor is any trained legal talent is thereby marshalled in the defence of the appellant. The insistence by the T.T.D. that the choice of a defence assistant should be restricted only to a retired employee of the T.T.D. is an insistence that appears arbitrary and irrational.

On the above analysis, the appeals are allowed to the extent of declaring that the appellant shall be entitled to engage a defence assistant of his choice either from retired T.T.D. employees or a retired Government Servant. However, he shall not be entitled to engage a legal practitioner to assist him in his defence in the departmental enquiry initiated against him.

The writ appeals are allowed to the extent and as above at the stage of admission. There shall however be no order as to costs.

JUSTICE J.CHELAMESWAR

JUSTICE GODA RAGHURAM

25TH OCTOBER, 2004

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT APPEAL NO : 1524 of 2004

AND

WRIT APPEAL NO : 1528 of 2004

25TH OCTOBER, 2004

To

1 The Executive Officer, Tirumala Tirupati Devasthanam, Tirupati.

2 The Deputy Executive Officer, Tirumala Tirupati Devasthanam, Tirupati.

3 The Joint Executive Officer, Tirumala Tirupati Devasthanam, Tirupati.

4 Asst. Executive Officer (Ser.) Tirumala Tirupati Devasthanam, Tirupati.

5 The Secretary, Dharma Prachara Parishat, T.T. Devasthanams, Tirupati.

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